

REMARKS

Reconsideration of the application is respectfully requested for the following reasons:

1. Amendments to Claims

Non-elected claims 1-7, 33, 36-48, and 60-76 have been canceled without prejudice or disclaimer. Applicant reserves the right to file one or more divisional applications directed to the canceled claims.

Independent claims 8, 22, 24, 27, 28, 34, 36, 38, 49, 60, and 70 have been amended to recite that the alterations of the diffraction structures results in individualization of the optical variable element relative to at least one other of a plurality of data carriers having otherwise common diffraction structures, and all of the independent claims have been amended to recite that a printed pattern is visible through the diffraction structures.

In addition, typographic errors have been corrected in claims 37, 40, 51, 60, and 61.

2. Interview

The Examiner is thanked for the courtesy extended during an interview at the Examiner's office on July 30, 2003.

During the interview, it was explained that the invention involves adding distinguishing marks to diffraction elements so as to enable a data carrier issuer to individualize data carriers having the same basic diffraction elements, by altering the diffraction elements relative to other otherwise identical diffraction elements.

The Examiner indicated that claims to this feature would distinguish over art of record, although such claims would raise new issues and require further search or consideration. The Examiner also indicated that a better definition of what was being

altered, *e.g.*, of the diffraction element or of the diffraction element contour, might also distinguish over the art of record, subject to a new search and further consideration.

The amendments presented above include the limitations to individualization of multiple data carriers discussed during the interview. In addition, each of the claims have been amended to recite that a printed pattern is visible through the diffraction structures, thereby better defining the diffraction structures, and in particular excluding opaque layers from the definition of “diffraction structure” (otherwise, printed patterns would not be visible through the structures), although *portions* of the diffraction structure may of course be opaque (or caused to be opaque as a result of alteration)..

3. Rejections of Claims 8-10, 13-18, 20-26, 27-30, 31, 32, 34, 35, 49-59, and 77 Under 35 USC §§102(b) and 103(a) in view of U.S. Patent No. 4,629,647

These rejections are again respectfully traversed on the grounds that the Sander patent does not disclose a diffraction structure that is altered to individualize data carriers in the manner claimed. The diffraction layer 3a of Sander is not a diffraction structure *through which a printed pattern is visible*, as claimed, and is not altered to differentiate at least one of a set of data carriers from other carriers in the set. Instead, Sander merely teaches placing a signature strip over a diffraction pattern.

The diffraction structure of Sander is essentially a contoured reflective layer covered with a coat of lacquer. The lacquer layer may have transparent and opaque portions, but there is no teaching that the opaque and transparent portions individualize the cards, and there is no suggestion that the diffraction structure, which corresponds to the contoured foil area, is the type of diffraction structure through which a printed pattern, or any other element, is visible.

It is noted that element 3a of Sander is labeled a “diffraction pattern.” However, it is defined as a layer which is “intended to *receive* the structure 7 which has an optical

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diffraction effect. In other words, diffraction is provided by the metal layer 7. Therefore, the “diffraction structure” of Sander corresponds to the metal layer by itself, or to the combined metal layer and transparent lacquer layer. Because part of the “diffraction structure” itself is a metal layer, it cannot be said that an underlying pattern can be viewed *through* the diffraction structure. Only the diffraction structure itself can be viewed.

Because the “diffraction structure” of Sander does not correspond to the claimed diffraction structure, and because it is not altered to individualize carriers having common diffraction structures in the manner claimed, withdrawal of the rejections under 35 USC §§102(b) and 103(a) is respectfully requested.

Having thus overcome each of the rejections made in the Official Action, withdrawal of the rejections and expedited passage of the application to issue is requested.

Respectfully submitted,

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